



The  
THE FAMILY LAW SECTION  
respectfully submits the following position on:

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HB 5698

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The Family Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Family Law Section only and is not the position of the State Bar of Michigan. To date, the State Bar of Michigan does not have a position on this matter.

The total membership of the Family Law Section is 2,585.

The position was adopted after review and vote by members elected to the Family Law Section's Council. The number of members in the decision-making body is 21. The number who voted in favor to this position was 14. The number who voted opposed to this position was 0.



## Report on Public Policy Position

**Name of Section:**

Family Law Section

**Contact Person:**

Kent Weichmann

**Email:**

weichmann@earthlink.net

**Bill Number:**

HB 5698 (Vander Veen) Family law; marriage and divorce; divorce; require a divorce effects program before entry of judgment of divorce. Amends 1846 RS 84 (MCL 552.1 - 552.45) by adding sec. 5.

**Date position was adopted:**

March 4, 2006

**Process used to take the ideological position:**

Vote of Council members present at Council

**Number of members in the decision-making body:**

21

**Number who voted in favor and opposed to the position:**

14-0

**FOR SECTIONS ONLY:**

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

*If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.*

**Position:**

HB 5698 would require parties to a divorce involving minor children to complete a Divorce Effects Program and a Questionnaire, on pain of contempt. The Divorce Effects Program seems similar to the SMILE program that most courts have voluntarily implemented.

The questionnaire asks the parties to consider whether divorce will improve or diminish their quality of life and family relationships. It isn't clear what happens to the questionnaire, but it may be reviewed by the program provider, the court, and law enforcement personnel, including a prosecutor.

The Council opposed the bill as drafted. The Council had no problem with requiring a SMILE type program, although we had concerns about the appropriateness of contempt as a remedy for non-attendance. The

Questionnaire requirement was strongly opposed. It requires each party to submit short essays on intensely personal subjects, without any clear sense of the purpose of the document. It cannot be placed in the court file, because it is not a public document, yet it can be reviewed by the court and law enforcement. If the court can review the questionnaire, the other party must also be granted access to the answers, to comply with due process. This would restrain a party from submitting any but the most cursory answers. It seems designed to pressure plaintiffs into retracting their complaint. It was suggested that such a questionnaire could be part of the premarital education but not a requirement for divorce.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

[http://www.legislature.mi.gov/\(0rngndv5tvj3aw45nhbiuh45\)/mileg.aspx?page=BillStatus&objectname=2006-HB-5698](http://www.legislature.mi.gov/(0rngndv5tvj3aw45nhbiuh45)/mileg.aspx?page=BillStatus&objectname=2006-HB-5698)



The  
THE FAMILY LAW SECTION  
respectfully submits the following position on:

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HB 5699

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The total membership of the Family Law Section is 2,585.

The position was adopted after review and vote by members elected to the Family Law Section's Council. The number of members in the decision-making body is 21. The number who voted in favor to this position was 10. The number who voted opposed to this position was 3.



## Report on Public Policy Position

**Name of Section:**

Family Law Section

**Contact Person:**

Kent Weichmann

**Email:**

weichmann@earthlink.net

**Bill Number:**

HB 5699 (Kooiman) Family law; marriage and divorce; prerequisites for issuance of a marriage license; require premarriage program or longer waiting period. Amends title & secs. 2, 3 & 3a of 1887 PA 128 (MCL 551.102 et seq.) & adds secs. 2a & 2b. TIE BAR WITH: HB 5700'06, HB 5702'06, HB 5703'06

**Date position was adopted:**

March 4, 2006

**Process used to take the ideological position:**

Vote of Council members present at Council

**Number of members in the decision-making body:**

21

**Number who voted in favor and opposed to the position:**

10-3, 1 abstention

**FOR SECTIONS ONLY:**

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

*If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.*

**Position:**

HB 5699 allows couples to avoid the three-day wait between marriage license application and issuance by taking a four-hour premarital education program. This premarital education program includes topics designed to prepare couples for marriage. The Council supports this strategy. The Council opposed the provision in the bill that would require the marriage license itself to record whether the couple participated in premarital education. We felt that reflecting the counseling (or not) in the license application was sufficient for any statistical tracking that may be undertaken. The Council supported this bill with that amendment.

**The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:**

[http://www.legislature.mi.gov/\(Orngndv5tyj3aw45nhbiuh45\)/mileg.aspx?page=BillStatus&objectname=2006-HB-5699](http://www.legislature.mi.gov/(Orngndv5tyj3aw45nhbiuh45)/mileg.aspx?page=BillStatus&objectname=2006-HB-5699)



The  
THE FAMILY LAW SECTION  
respectfully submits the following position on:

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HB 5701  
SB 1045

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The total membership of the Family Law Section is 2,585.

The position was adopted after review and vote by members elected to the Family Law Section's Council. The number of members in the decision-making body is 21. The number who voted in favor to this position was 10. The number who voted opposed to this position was 5.



## Report on Public Policy Position

**Name of Section:**

Family Law Section

**Contact Person:**

Kent Weichmann

**Email:**

weichmann@earthlink.net

**Bill Number:**

HB 5701 (Moolenaar) Family law; child custody; child parenting plan; create. Amends title & secs. 1, 2, 4 & 11 of 1970 PA 91 (MCL 722.21 et seq.) & adds secs. 5a, 5b, 5c, 5d, 5e & 5f. TIE BAR WITH: HB 5698'06. Same original content as SB 1045.

SB 1045 (Kuipers) Family law; child custody; child parenting plan; create. Amends title & secs. 1, 2, 4 & 11 of 1970 PA 91 (MCL 722.21 et seq.) & adds secs. 5a, 5b, 5c, 5d, 5e & 5f. Same original content as HB 5701.

**Date position was adopted:**

March 4, 2006

**Process used to take the ideological position:**

Vote of Council members present at Council

**Number of members in the decision-making body:**

21

**Number who voted in favor and opposed to the position:**

10-5

**FOR SECTIONS ONLY:**

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

*If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.*

**Position:**

HB 5701 (SB 1045) would amend the custody act to require each divorcing parent to submit to the court a parenting plan proposal on a State Court Administrative Office form. The bill requires the parties to attempt mediation (except in cases involving domestic violence) and requires the court to provide alternatives to litigation, such as counseling, mediation or arbitration. The bill allows the court to financially sanction a party who frustrates the use of such ADR without good cause.

The Council felt that it was good to encourage parties to mediate their custody disputes, but was concerned that this

bill put counseling, mediation and arbitration on an equal footing, and would allow the court to sanction a party who objected to any of those processes. The bill also mandated specific court procedures, some of which made little sense. The Council was only able to support the creation of a parenting plan form by the State Court Administrative Office. The purpose of the form would be to help the parties make sure that they had considered all of the appropriate issues in custody and parenting time, without requiring a specific proposal on every issue, particularly those that were not seen to be at issue. The Council supported the creation of such a parenting plan form, but opposed the remainder of the bill.

**The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:**

[http://www.legislature.mi.gov/\(0rngndv5tvj3aw45nhbiuh45\)/mileg.aspx?page=BillStatus&objectname=2006-HB-5701](http://www.legislature.mi.gov/(0rngndv5tvj3aw45nhbiuh45)/mileg.aspx?page=BillStatus&objectname=2006-HB-5701)

[http://www.legislature.mi.gov/\(vjlll5rkoxhm2j45baojnuyy\)/mileg.aspx?page=BillStatus&objectname=2006-SB-1045](http://www.legislature.mi.gov/(vjlll5rkoxhm2j45baojnuyy)/mileg.aspx?page=BillStatus&objectname=2006-SB-1045)





The  
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respectfully submits the following position on:

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HB 5703

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The total membership of the Family Law Section is 2,585.

The position was adopted after review and vote by members elected to the Family Law Section's Council. The number of members in the decision-making body is 21. The number who voted in favor to this position was 13. The number who voted opposed to this position was 2.



## Report on Public Policy Position

**Name of Section:**

Family Law Section

**Contact Person:**

Kent Weichmann

**Email:**

weichmann@earthlink.net

**Bill Number:**

HB 5703 (Wojno) Family law; marriage and divorce; recording of certain information on marriage license and certificate; require. Amends sec. 4 of 1887 PA 128 (MCL 551.104). TIE BAR WITH: HB 5699'06, HB 5700'06, HB 5702'06.

**Date position was adopted:**

March 4, 2006

**Process used to take the ideological position:**

Vote of Council members present at Council

**Number of members in the decision-making body:**

21

**Number who voted in favor and opposed to the position:**

13-2

**FOR SECTIONS ONLY:**

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- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

*If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.*

**Position:**

HB 5703 would require marriage licenses and certificates to contain information regarding completion (or not) of premarital education. The Council felt that this information should only be on the license application, and not on the marriage license. The Council opposed this bill.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

[http://www.legislature.mi.gov/\(0rngndv5trvj3aw45nhbiuh45\)/mileg.aspx?page=BillStatus&objectname=2006-HB-5703](http://www.legislature.mi.gov/(0rngndv5trvj3aw45nhbiuh45)/mileg.aspx?page=BillStatus&objectname=2006-HB-5703)